

# HOUSE JOURNAL

OF THE

## IDAHO LEGISLATURE

SECOND REGULAR SESSION  
SIXTY-FIRST LEGISLATURE

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**THIRTY-FIRST LEGISLATIVE DAY  
WEDNESDAY, FEBRUARY 8, 2012**

House of Representatives

The House convened at 11 a.m., the Speaker in the Chair.

Roll call showed 69 members present.  
Absent and excused – Killen. Total – 1.  
Total – 70.

Prayer was offered by Pastor Gary Moore.

The Pledge of Allegiance was led by Alexander Baca, Page.

### Approval of Journal

February 8, 2012

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have read and approved the House Journal of the Thirtieth Legislative Day and recommend that same be adopted as corrected.

WILLS, Chairman

Mr. Wills moved that the report be adopted. Seconded by Mr. Burgoyne. Report adopted.

### Consideration of Messages from the Governor and the Senate

OFFICE OF THE GOVERNOR  
Boise

February 8, 2012

The Honorable Lawrence Denney  
Speaker of the House

Dear Mr. Speaker:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following House bill, to wit:

[H 361](#)

As Always - Idaho, "Esto Perpetua"  
/s/ C.L. "Butch" Otter  
Governor

February 7, 2012

Mr. Speaker:

I return herewith enrolled [H 395](#) which has been signed by the President.

NOVAK, Secretary

Enrolled [H 395](#) was referred to the Judiciary, Rules, and Administration Committee for delivery to the Governor.

February 7, 2012

Mr. Speaker:

I transmit herewith [S 1270](#) which has passed the Senate.  
NOVAK, Secretary

[S 1270](#) was filed for first reading.

February 7, 2012

Mr. Speaker:

I return herewith [H 365](#) which has passed the Senate.  
NOVAK, Secretary

[H 365](#) was referred to the Judiciary, Rules, and Administration Committee for enrolling.

### Report of Standing Committees

February 8, 2012

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have printed [HJM 9](#), [H 479](#), [H 480](#), [H 481](#), [H 482](#), [H 483](#), [H 484](#), [H 485](#), [H 486](#), [H 487](#), [H 488](#), and [H 489](#).

WILLS, Chairman

[HJM 9](#) was referred to the Environment, Energy, and Technology Committee.

[H 479](#) and [H 480](#) were referred to the Transportation and Defense Committee.

[H 481](#) was referred to the Education Committee.

[H 482](#), [H 483](#), and [H 484](#) were referred to the Local Government Committee.

[H 485](#), [H 488](#), and [H 489](#) were referred to the Revenue and Taxation Committee.

[H 486](#) and [H 487](#) were referred to the Health and Welfare Committee.

February 8, 2012

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have enrolled [H 364](#).

WILLS, Chairman

The Speaker announced he was about to sign enrolled [H 364](#) and, when so signed, ordered it transmitted to the Senate for the signature of the President.

February 8, 2012

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have transmitted enrolled [H 356](#) to the Governor at 11:50 a.m., as of this date, February 7, 2012.

WILLS, Chairman

February 7, 2012

Mr. Speaker:

We, your COMMITTEE ON STATE AFFAIRS, report that we have had under consideration [H 443](#) and recommend that it do pass.

LOERTSCHER, Chairman

[H 443](#) was filed for second reading.

February 7, 2012

Mr. Speaker:

We, your COMMITTEE ON RESOURCES AND CONSERVATION, report that we have had under consideration [H 446](#) and recommend that it do pass.

STEVENSON, Chairman

[H 446](#) was filed for second reading.

February 7, 2012

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have had under consideration [H 449](#), [S 1213](#), [S 1219](#), and [S 1222](#) and recommend that they do pass.

WILLS, Chairman

[H 449](#), [S 1213](#), [S 1219](#), and [S 1222](#) were filed for second reading.

There being no objection, the House advanced to the Seventh Order of Business.

#### **Motions, Memorials, and Resolutions**

#### **HOUSE RESOLUTION NO. 4 BY STATE AFFAIRS COMMITTEE**

##### **A HOUSE RESOLUTION**

STATING FINDINGS OF THE HOUSE OF REPRESENTATIVES AND PROVIDING FOR THE ADDITION OF A NEW RULE 78 TO THE RULES OF THE HOUSE OF REPRESENTATIVES.

Be It Resolved by the House of Representatives of the State of Idaho:

WHEREAS, the House of Representatives deems it necessary and desirable to add a new Rule 78 to the Rules of the House of Representatives.

NOW, THEREFORE, BE IT RESOLVED by the members of the House of Representatives, assembled in the Second Regular Session of the Sixty-first Idaho Legislature, that the Rules of the House of Representatives shall be amended by the addition thereto of a new Rule 78 to read as follows:

##### **RULE 78**

Leadership and Committee Chairmen and Vice Chairmen and Driving Under the Influence. Any member of majority or minority party leadership or a committee chairman or vice chairman who is convicted, found guilty, pleads guilty or receives a withheld judgment for driving a motor vehicle under the influence of alcohol or drugs pursuant to chapter 80, title 18, Idaho Code, or a similar statute in another state or province shall be ineligible to serve in such leadership post or committee chairman or vice chairman post for the remainder of the legislative term.

[HR 4](#) was introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

#### **Introduction, First Reading, and Reference of Bills and Joint Resolutions**

#### **HOUSE BILL NO. 490 BY STATE AFFAIRS COMMITTEE**

##### **AN ACT**

RELATING TO THE STATE SUNSHINE LAW;  
AMENDING SECTION 31-2012, IDAHO CODE, TO

PROVIDE APPLICATION OF THE CAMPAIGN REPORTING LAW TO COUNTYWIDE MEASURES INCLUDING COUNTYWIDE RECALL ELECTIONS; AMENDING SECTION 50-420, IDAHO CODE, TO PROVIDE APPLICATION OF THE CAMPAIGN REPORTING LAW TO CITYWIDE RECALL ELECTIONS; AMENDING SECTION 67-6602, IDAHO CODE, TO FURTHER DEFINE THE TERM "MEASURE" AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 67-6610A, IDAHO CODE, TO PROVIDE THAT RECALL ELECTIONS SHALL BE TREATED THE SAME AS GENERAL ELECTIONS FOR CONTRIBUTION LIMITS.

#### **HOUSE BILL NO. 491 BY STATE AFFAIRS COMMITTEE**

##### **AN ACT**

RELATING TO VOTING MACHINE APPROVAL; AMENDING SECTION 34-2409, IDAHO CODE, TO PROVIDE THAT ANY VOTING MACHINE OR VOTE TALLY SYSTEM SHALL BE CERTIFIED BY THE SECRETARY OF STATE FOR USE IN IDAHO.

#### **HOUSE BILL NO. 492 BY BUSINESS COMMITTEE**

##### **AN ACT**

RELATING TO THE UNIFORM SECURITIES ACT OF 2004; AMENDING SECTION 30-14-102, IDAHO CODE, TO PROVIDE A CORRECT CITATION; AMENDING SECTION 30-14-202, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 30-14-302, IDAHO CODE, TO PROVIDE CORRECT CITATIONS, TO REMOVE REFERENCE TO DOCUMENTS INCLUDED IN A NOTICE FILING, TO REMOVE A REFERENCE TO A LATE FEE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 30-14-402, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE, TO PROVIDE A CORRECT CITATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 30-14-412, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 30-14-501, IDAHO CODE, TO PROHIBIT THE DIVERSION OF INVESTOR FUNDS FROM THEIR INTENDED USE IN CONNECTION WITH A SECURITIES TRANSACTION; AMENDING SECTION 30-14-502, IDAHO CODE, TO PROHIBIT THE DIVERSION OF INVESTOR FUNDS FROM THEIR INTENDED USE BY ONE PROVIDING INVESTMENT ADVICE; AMENDING SECTION 30-14-603, IDAHO CODE, TO PROVIDE A STATUTE OF LIMITATION FOR CIVIL SECURITIES ACTIONS BY THE DEPARTMENT OF FINANCE; AND AMENDING SECTION 30-14-611, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION.

#### **HOUSE BILL NO. 493 BY BUSINESS COMMITTEE**

##### **AN ACT**

RELATING TO PRODUCT LIABILITY; AMENDING CHAPTER 14, TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 6-1411, IDAHO CODE, TO PROVIDE THAT A MANUFACTURER SHALL NOT BE LIABLE IF THE CLAIMANT FAILS TO PROVE BY A PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT MANUFACTURED, OR HAD MANUFACTURED ON HIS BEHALF, THE ACTUAL PRODUCT THAT WAS THE CAUSE OF HARM FOR WHICH THE CLAIMANT SEEKS TO RECOVER COMPENSATORY DAMAGES.

**HOUSE BILL NO. 494**  
**BY RESOURCES AND CONSERVATION COMMITTEE**  
 AN ACT

RELATING TO THE IDAHO BOARD OF SCALING PRACTICES; AMENDING SECTION 38-1203, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE COMPOSITION OF THE IDAHO BOARD OF SCALING PRACTICES AND TO PROVIDE THAT UPON EXPIRATION OF A TERM OF OFFICE, A MEMBER SHALL CONTINUE TO SERVE UNTIL A SUCCESSOR HAS BEEN APPOINTED; AND DECLARING AN EMERGENCY.

**HOUSE BILL NO. 495**  
**BY RESOURCES AND CONSERVATION COMMITTEE**  
 AN ACT

RELATING TO STATE ENDOWMENT LANDS; AMENDING CHAPTER 1, TITLE 58, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 58-104, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS; AMENDING SECTION 58-104, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE THE PROCEDURES BY WHICH THE STATE BOARD OF LAND COMMISSIONERS EXERCISES CERTAIN POWERS AND DUTIES BY PROVIDING THAT, EXCEPT WHERE STATE ENDOWMENT LAND IS USED BY A PUBLIC ENTITY FOR A PUBLIC PURPOSE, ALL NONAGRICULTURAL IMPROVEMENTS SHALL BE LEASED OR SOLD TO PRIVATE PERSONS, NATURAL OR ARTIFICIAL, AND ALL NONAGRICULTURAL BUSINESS OPERATIONS SHALL BE SOLD TO PRIVATE PERSONS, NATURAL OR ARTIFICIAL; AMENDING SECTION 58-104A, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 58-133, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE ACQUISITION OF LAND AND TO REVISE PROVISIONS RELATING TO AUTHORIZATION FOR THE STATE BOARD OF LAND COMMISSIONERS TO HOLD PROCEEDS FROM THE SALE OF LAND FOR A SPECIFIED TIME; AND AMENDING SECTION 5-246, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION.

**HOUSE BILL NO. 496**  
**BY RESOURCES AND CONSERVATION COMMITTEE**  
 AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-411, IDAHO CODE, TO EXEMPT MEMBERS OF THE ARMED FORCES OR RESERVES OF THE UNITED STATES, THE NATIONAL GUARD OF ANY STATE, THE MILITARY RESERVES OF ANY STATE, THE NAVAL MILITIA OF ANY STATE, AND VETERANS THEREOF, FROM HUNTER EDUCATION REQUIREMENTS.

**HOUSE BILL NO. 497**  
**BY JUDICIARY, RULES, AND ADMINISTRATION**  
**COMMITTEE**  
 AN ACT

RELATING TO DNA TESTING; AMENDING SECTION 19-4902, IDAHO CODE, TO PROVIDE CONDITIONS RELATING TO CERTAIN DNA TESTING AND TO PROVIDE THAT THE IDAHO STATE POLICE SHALL NOT BE REQUIRED TO OUTSOURCE OR PAY FOR TESTING UNDER CERTAIN CIRCUMSTANCES; AND DECLARING AN EMERGENCY.

**HOUSE BILL NO. 498**  
**BY EDUCATION COMMITTEE**  
 AN ACT

RELATING TO THE TRANSPORTATION SUPPORT PROGRAM; AMENDING SECTION 33-1006, IDAHO CODE, TO DELETE LANGUAGE RELATING TO CERTAIN DUTIES OF THE LEGISLATIVE AUDITS SECTION OF THE LEGISLATIVE SERVICES OFFICE AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

**HOUSE BILL NO. 499**  
**BY EDUCATION COMMITTEE**  
 AN ACT

RELATING TO SCHOOL BUILDING MAINTENANCE; AMENDING SECTION 33-1019, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE SUBMISSION BY SCHOOL DISTRICTS OF CERTAIN INFORMATION TO THE STATE DEPARTMENT OF EDUCATION; AND AMENDING SECTION 39-8006A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE SUBMISSION BY EACH SCHOOL DISTRICT OF A CERTAIN PLAN TO THE DIVISION OF BUILDING SAFETY AND TO REVISE PROVISIONS RELATING TO THE INFORMATION INCLUDED IN SUCH PLAN.

[H 490](#), [H 491](#), [H 492](#), [H 493](#), [H 494](#), [H 495](#), [H 496](#), [H 497](#), [H 498](#), and [H 499](#) were introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

[S 1270](#), by State Affairs Committee, was introduced, read the first time by title, and referred to the State Affairs Committee.

There being no objection, the House advanced to the Tenth Order of Business.

**Second Reading of Bills and Joint Resolutions**

[H 426](#), by Education Committee, was read the second time by title and filed for third reading.

[S 1237](#), by Education Committee, was read the second time by title and filed for third reading.

There being no objection, the House advanced to the Twelfth Order of Business.

**Consideration of General Orders**

Mr. Moyle moved that the House do now resolve itself into a Committee of the Whole House for the consideration of General Orders. Seconded by Mr. Rusche. Motion carried.

Whereupon the House resolved itself into a Committee of the Whole House for the consideration of General Orders with Mr. Bedke in the Chair.

When the Committee of the Whole House rose, the Speaker returned to the Chair and the House was in order.

**Report of the Committee of the Whole House**

February 8, 2012

Mr. Speaker:

We, your COMMITTEE OF THE WHOLE HOUSE, report that we have had under consideration [H 387](#), [H 368](#), [H 388](#), and [H 393](#) and report them back without recommendation, amended as follows:

**HOUSE AMENDMENT TO H.B. NO. 387****AMENDMENT TO SECTION 1**

On page 4 of the printed bill, in line 34, delete "~~beneficiary's, partner's, member's or share-~~" and insert: ", beneficiary's, partner's, member's or share-"; and in line 35, delete: "~~holder's~~" and insert: "holder's".

On page 5, in line 19, following "owner" insert: "according to the refund provisions of section 63-1305, Idaho Code, with payment or notice of credit delivered to the owner"; and in line 25, following "collected." insert: "If a notice of military, temporary humanitarian or religious service has not been filed, the owner must make a claim for refund within one (1) year after the first day of January following the owner's return to the homestead, and shall be limited to a refund not exceeding the last five (5) years of erroneous collection. If such notice was filed, no time limits shall apply to subsequent erroneous assessments.".

**AMENDMENT TO THE BILL**

On page 9, following line 12, insert:

"SECTION 3. That Section 63-1305, Idaho Code, be, and the same is hereby amended to read as follows:

63-1305. REFUND OR CREDIT OF PROPERTY TAXES BY ORDER OF COURT OR BOARD OF TAX APPEALS. (1) When any court or the board of tax appeals orders a refund of any property taxes imposed under chapters 1 through 17, title 63, Idaho Code, or a refund is due pursuant to section 63-602G(7), Idaho Code, the county commissioners of the county or counties which collected the taxes may either refund taxes or apply the amount to be refunded as a credit against taxes due from the taxpayer in the following year. The county commissioners may use a combination of both a payment and a credit to effect the refund.

(2) As used in this section, "refund" includes property tax described in subsection (1) of this section found by the court or the board of tax appeals to have been overpaid and not lawfully due, interest due on the refund of such tax, costs and other amounts ordered paid by a court or the board of tax appeals.

(3) In the event a refund is paid, payments must be made by warrants drawn on the county's current expense fund by the county auditor. The auditor shall apportion the amount of property taxes cancelled as credit to the tax collector. The auditor shall charge the various funds and taxing districts with their proportionate share of the refund and credit the current expense account.

(4) If a credit is given the following year, the credit shall be allowed against actual property taxes assessed to the taxpayer by the taxing districts which received the taxes ordered to be refunded.

(5) Amounts equal to the refunds or credits allowed in this section may be included in amounts certified pursuant to sections 63-802 through 63-807, Idaho Code, but shall not be a part of the operating budget within the meaning of section 63-802, Idaho Code."

**CORRECTION TO TITLE**

On page 1, delete lines 3 through 5, and insert: "TO REVISE PROVISIONS RELATING TO A HOMESTEAD HAVING PREVIOUSLY QUALIFIED FOR EXEMPTION IN THE PRECEDING YEAR, TO PROVIDE THAT A CERTAIN EXEMPTION SHALL NOT BE IMPAIRED"; in line 16, delete "AND"; and in line 17, following "LAW" insert: "; AND AMENDING SECTION 63-1305, IDAHO CODE, TO REVISE PROVISIONS RELATING TO REFUNDS OR CREDITS

OF PROPERTY TAXES AND TO MAKE A TECHNICAL CORRECTION".

**HOUSE AMENDMENT TO H.B. NO. 368****AMENDMENT TO SECTION 2**

On page 2 of the printed bill, in line 9, delete "funding sources" and insert: "nonfederal grants".

**HOUSE AMENDMENT TO H.B. NO. 388****AMENDMENT TO SECTION 4**

On page 5 of the printed bill, in line 34, delete "nationally accept-"; in line 35, delete "able"; also in line 35, following "standards" insert: "defined in accordance with department rules".

**AMENDMENT TO SECTION 7**

On page 7, in line 5, delete "pursuant to the provisions of 42 U.S.C. section 9837b(b)"; in line 12, delete "those required by the pro-"; and in line 13, delete "visions of 20 U.S.C. section 1441 and 42 U.S.C. section 9837b(b) and".

**AMENDMENT TO SECTION 13**

On page 13, in line 3, following "source." insert: "All money in the fund is appropriated continuously for the purpose of carrying out the provisions of this chapter.".

**AMENDMENT TO SECTION 14**

On page 13, in line 28, following "chapter" insert: "and to support the statewide effort in the development and sustainability of the council and of early childhood services and programs".

**AMENDMENT TO SECTION 15**

On page 13, delete lines 42 through 44, and insert: "~~1-1990.~~".

**HOUSE AMENDMENT TO H.B. NO. 393****AMENDMENT TO SECTION 4**

On page 2 of the printed bill, delete lines 25 through 32, and insert: "There is hereby created in the state treasury a fund known as the "Rural Health Care Access Fund." Subject to appropriation by the legislature, moneys in the fund shall be used exclusively for the purpose of grants for improving access to primary care medical services in areas designated as primary care health professional shortage areas and medically underserved areas and their administration pursuant to this chapter.

(2) There is hereby created in the state treasury a fund known as the "Rural Physician Incentive Fund." Money is payable into the fund as provided for in section 33-3723, Idaho Code. The moneys in the rural physician incentive fund are hereby appropriated for the uses of the fund. The state department of health and welfare may use the moneys in the fund to pay:

(a) The educational debts of rural physicians who practice primary care medicine in medically underserved areas of the state that demonstrate a need for assistance in physician recruitment; and

(b) The expenses of administering the rural physician incentive program. The expenses of administering the program shall not exceed ten percent (10%) of the annual fees assessed pursuant to section 33-3723, Idaho Code."

**CORRECTION TO TITLE**

On page 1, delete lines 10 through 13, and insert: "IDAHO CODE, TO PROVIDE FOR THE RURAL PHYSICIAN INCENTIVE FUND, TO PROVIDE FOR MONEYS IN THE FUND, TO PROVIDE THAT MONEYS IN THE FUND ARE

HEREBY APPROPRIATED AND TO PROVIDE FOR USES OF THE FUND; AMENDING SECTION 39-5903, IDAHO CODE, TO REVISE DEF-".

We have also had under consideration [H 386](#), report progress and beg leave to sit again.

BEDKE, Chairman

Mr. Bedke moved that the report be adopted. Seconded by Mr. Rusche.

Whereupon the Speaker declared the report adopted.

[H 387](#), as amended, [H 368](#), as amended, [H 388](#), as amended, and [H 393](#), as amended, were referred to the Judiciary, Rules, and Administration Committee for engrossing.

[H 386](#) was retained on General Orders.

The amendments were referred to Judiciary, Rules, and Administration committee for printing.

There being no objection, the House returned to the Eleventh Order of Business.

### **Third Reading of Bills and Joint Resolutions**

#### **[H 391](#) - PRIMARY ELECTION**

[H 391](#) was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Loertscher to open debate.

The question being, "Shall [H 391](#) pass?"

Roll call resulted as follows:

AYES – Anderson, Andrus, Bateman, Bayer, Bedke, Bell, Bilbao, Black, Block, Bolz, Boyle, Buckner-Webb, Chadderdon, Chew, Collins, Cronin, DeMordaunt, Eskridge, Gibbs, Hart, Hartgen, Higgins, Jaquet, King, Lacey, Lake, Loertscher, Luker, Marriott, McGeachin, Moyle, Nessel, Nielsen, Nonini, Palmer, Patrick, Pence, Raybould, Ringo, Roberts, Rusche, Schaefer, Shepherd, Shirley, Simpson, Sims, Smith(30), Smith(24), Stevenson, Thayne, Thompson, Trail, Vander Woude, Wills, Wood(27), Mr. Speaker. Total – 56.

NAYS – Barbieri, Barrett, Batt, Crane, Ellsworth, Guthrie, Hagedorn, Harwood, Henderson, McMillan, Perry, Wood(35). Total – 12.

Absent and excused – Burgoyne, Killen. Total – 2.

Total – 70.

Whereupon the Speaker declared that [H 391](#) passed the House. Title was approved and the bill ordered transmitted to the Senate.

There being no objection, the House advanced to the Sixteenth Order of Business.

### **Adjournment**

Mr. Moyle moved that the House adjourn until 11 a.m., Thursday, February 9, 2012. Seconded by Mr. Rusche. Motion carried.

Whereupon the Speaker declared the House adjourned at 11:43 a.m.

LAWRENCE DENNEY, Speaker

ATTEST:

BONNIE ALEXANDER, Chief Clerk